

### **Amendments to the Drawings:**

The attached sheets of drawing include changes as listed below. The attached replacement sheet replaces the original sheet for Figure 1.

The changes are as follows.

Fig. 1 has been amended to include the material suggested by the Examiner, that is, showing that the original shipper pays the coordinator a percentage of the sales price of the shipping platform being returned to the original shipper. It is respectfully submitted that no amendment is required of the specification since the first full paragraph on page 6, between and including lines 7 and 13, discloses this step in Applicants' system.

Attachment: 1 Replacement Sheet: Fig. 1

## **R E M A R K S**

The office action of May 5, 2008 has been reviewed and its contents carefully noted. Reconsideration of this case, as amended, is respectfully requested. Claims 1-3, 7-13 and 15-18 remain in this case.

### **Objections to the Specification / Claims / Abstract / Drawing**

Reconsideration and withdrawal of the objections noted in the Office Action are respectfully requested. Specifically, Figure 1 has been amended and a replacement sheet submitted herewith to correct the omission in the Specification identified by the Examiner.

As to the objection to Claim 1, the foregoing amendment corrects the grammatical awkwardness of the claim as drafted.

### **Rejection(s) under 35 U.S.C. §112**

Claims 1-3 and 7-11 are rejected under 35 USC 112, second paragraph, for lack of antecedent basis in the use of the word “separately”. The foregoing amendment has deleted this word and replaced it with the appropriate “specifically”.

Applicant believes that these amendments have fully addressed the Examiner's rejections. Reconsideration and withdrawal of the rejection are therefore respectfully requested.

### **Rejection(s) under 35 U.S.C. §103**

Claims 1, 4 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saphire in view of Meehan et al. Applicant respectfully disagrees, and believes the claims, as amended, are patentable over the cited references, individually and in combination.

Saphire describes and advocates many systems for the reduction of waste due to the number of shipping platforms that end up in landfills, etc. They cite a number of examples of how shipping platforms can be returned to their original shipper. For example, they discuss “closed loop” systems in which the container always goes back to the same location (page 7, paragraph bridging over to page 8). Further in this paragraph, they describe a system that Xerox uses in which the containers need not return to their point of origin, defining this as an “open loop” system. However, this system is “open” only to the extent that Xerox themselves do not accumulate the used containers. They use “third party logistical service contractors” who track these reusable shipping containers.

In contrast, Applicants claim a method for working with a plurality of independent original shippers. The Applicants’ system provides a coordinator who merely facilitates the return of specific shipping platforms to their original owners. There is no guarantee that any of these platforms will ever be returned to the original shipper. Applicants’ coordinator merely provides a system whereby *it is possible to reconnect specific shipping platforms with their original shippers*. This is not a “third party logistical service contractor” keeping track of the movement of shipping platforms from a *specific* company, such as Xerox. Within Applicants’ system, once the shipping platforms leave the original shipper, they may never be seen again. What Applicants’ system does, though, is provide a means whereby such an event may occur. They do so by providing special stencils to be applied by the original shipper and providing a website so that an end recipient, upon noticing the web address on the stencil, is then capable of accessing that website. The coordinator then acts as the “middleman”, so to speak, between the end recipient and the original shipper. This coordination effort involves a combination of communicating between the end recipient and the original shipper, assuring that the shipping platforms are in acceptable condition, negotiating a price to resell (an element lacking in a closed loop “members only” or leasing systems) the platforms back to the original shipper and, if necessary, providing shipping assistance for the return of these shipping platforms.

Further, with respect to the Xerox case study in Saphire (referring now to col.2, page 10), their “open loop” system is not concerned with the return of the containers or under “third party collection”, another party is used to resell the shipping platforms to anyone but the original shipper, Xerox. Xerox’s system provides for the use of “standardized” boxes or platforms that

**“do not necessarily go back to the same supplier”** (col. 1, end of second full paragraph, page 12; emphasis added). This is clearly contrary to Applicants’ system which is set up to *provide the potential* to reconnect specific shipping platforms to their original shipper. The Xerox program teaches away from Applicants’ claimed system.

In addition, Sapphire describes a system used by the auto manufacturer Toyota. This is essentially a closed loop system in which each supplier is required to “purchase and maintain [the] containers”. Since multiple suppliers provide the same or similar parts, Toyota designed their shipping containers and platforms to not only carry a limited number of specific types of parts, but that these containers, *because they are standardized*, can be returned to any of the suppliers producing any of the specific parts that the platform was designed to carry. Again, this type of shipping system teaches away from Applicants’ system.

Sapphire further explains the difficulties experienced by smaller shippers. On page 17, they discuss these problems under the headings, **“Ensuring the return of containers is difficult”**; **“Tracking containers may be difficult”** and **“Adequate storage facilities may not be available”**. They therefore acknowledge the problem addressed by Applicants but they do not disclose or suggest a solution even substantially similar to Applicants’ system. Sapphire does mention systems that attempt to solve this problem by a variety of different means, such as that employed by H. E. Butts Grocery Company. In this system, Butts uses a number of distribution centers where the empty containers can be returned. Again, this is a closed loop system, in that the shipping containers are either at the original shipper, on H. E. Butts trucks or at H. E. Butts owned distribution centers.

The produce distributor IFCO describes a closed loop system. The shipping crates are “lease[d]” (page 21, end of first full paragraph) to individual companies. Further, the crates are “standardized” so that they can be reused by any producer within the IFCO network. This clearly teaches something quite different from the retrieval of “lost” shipping containers under Applicants’ system.

Meehan et al. disclose a system of buying and selling goods and services over the internet, one of the goods being shipping platforms. However, the items are subject to bidding by multiple parties much like the plethora of on-line auction sites, such as e-Bay. There is no

way for the bidders to be directed to Applicants' coordinator's web site *unless they have the site address found ONLY on the stencil provided by the coordinator to the original shipper and applied to the original shippers' own shipping platforms*. Meehan et al. are not concerned with the return of lost shipping pallets to their *original owner*.

The combination of Saphire and Meehan et al. fail to disclose a system whereby the end recipient initiates contact with the coordinator by viewing the stencil on a specific shipping platform, making contact with the coordinator via the website, then working with the coordinator to return those specific shipping platforms to their *original shipper*. These two references alone and in combination teach away from the system created by Applicants'. The reconsideration and withdrawal of this rejection are respectfully requested.

Claims 2-3, 12-13 and 15-18 are rejected under 35 USC 103(a) as being unpatentable over Saphire, in view of Meehan et al. and in further view of CHEP.

Meehan et al. has already been discussed above. The important feature of this reference being that it is a web-based auction site for a variety of items. It is not a system whereby an original shipper is reunited with its original shipping platforms with the assistance of a coordinator whose sole responsibility is the reunification of a specific product, the platform, with the original shipper of that platform. Within the Meehan et al. system, anyone can bid on and then buy any item, regardless of the item(s)' point of origin.

CHEP is a web-based shipping container transfer network. Companies must first become clients of CHEP.com. CHEP *retains ownership of the shipping platforms*. Ownership of each of the shipping platforms in this system is never transferred during the entire process of shipping product from the original shipper through receipt by an end recipient and final shipment back to the member original shippers. The platforms are tracked and accounted for at all times within the closed loop CHEP network.

In contrast, Applicants' system reconnects shipping platforms that would otherwise be *lost or disposed of*. This is not a closed loop system such as disclosed by CHEP or the third party auction based system of Meehan et al. Any attempt to combine the closed loop systems of CHEP.com and Saphire with the third party auction system of Meehan et al. would provide a

conflicted, jumbled up system. Applicants' have solved a problem not addressed by any of the references either alone or in combination, namely the identification and recovery *to the original shipper* of otherwise *lost* shipping platforms *back to their original owner*.

The Examiner states that claims 13, 15-16 and 17-18 recited substantially similar limitations as claims 3, 7-8 and 10-11, respectively and rejects the former list using the same art and rationale. Accordingly, since nothing new is added to the Examiner's grounds of rejection, Applicants' hereby incorporate by reference their arguments made in response to the rejection of the former set of claims to the later set of claims.

Claims 7-9 are rejected under 35 USC 103(a) as being unpatentable over Sapphire in view of Meehan et al. and further in view of the web site identified hereinafter as Canadian Pallet Council (CPC). CPC, like CHEP, consists of member companies. The pallets used by the member companies are built to standards established by CPC. They are therefore all the same. Further, CPC *owns* the pallets. As members remove and replace pallets within the "pool" CPC accounts for each members' balance. CPC is, in effect, a tracking system or an inventory control manager. Applicants' respectfully disagree with the Examiner, to the extent that combining the closed network system of CPC and Sapphire with the third party auctioning system of Meehan et al. is counterintuitive. Such a system would enable third parties to bid on and purchase shipping platforms that are *already owned by another company or the "network" manager*. A pallet recovery system resulting from the suggested combination is not only completely nonfunctional, but clearly does not suggest Applicants' system of identifying lost pallets and then providing the end recipient of that pallet a mechanism by which a specific pallet can be reunited with its original shipper through the system created by Applicants' coordinator. The concept of placing repair standards onto a website is not the invention. It is merely a dependent aspect of Applicants' system. Applicants respectfully request that with the reconsideration and withdrawal of the rejection of independent claim 1, the dependent issue of repair standards is moot.

Applicants claim a system of identifying lost pallets and then coordinating the return of a certain number or all of the pallets held by the end recipient to the original shipper *at the sole discretion of the original shipper*. The element of control held by the original shipper is not even addressed by any of the cited references. Within the closed loop systems disclosed by the

references cited by the Examiner, a substantially “automated” cycle is established in that there is a degree of certainty within these systems that the pallets will be returned to their original owner or re-inventoried, as within the CPC system. This “certainty” is lacking from Applicants’ claimed system. Applicants are claiming a system that is concerned with the identification of otherwise lost or discarded pallets, the coordination of communication between the end recipient and the original shipper and further action, such as managing the transfer of the pallets and money, should that be necessary; but, to repeat, there is no guarantee that the original shipper will accept the return of these pallets after all.

### **Conclusion**

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants’ attorney would advance the prosecution of the case to finality, she is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

Respectfully Submitted:  
--Richards et al.--

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